

ENDORSED
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ALAMEDA COUNTY

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7 CENTER FOR ENVIRONMENTAL HEALTH

8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF ALAMEDA

II

12 CENTER FOR ENVIRONMENTAL HEALTH,) Case No. RG II-600721
a non-profit corporation,)
13 Plaintiff,)
14 v.)
15)
16 AERODYNAMIC AVIATION; AIR 88, INC.;)
AIR RUTTER INTERNATIONAL LLC;)
17 AIRFLITE, INC.; AIRPORT PROPERTY)
PARTNERS LLC; AMELIA REID AVIATION)
18 LLC; AMERICAN AIRPORTS)
CORPORATION; AMERICAN FLYERS;)
19 AMERICAN FLYERS FBO; APP)
JETCENTER; A T E OF NEW YORK, INC.;)
20 ATLANTIC AVIATION CORPORATION;)
ATLANTIC AVIATION FBO INC.;)
21 ATLANTIC AVIATION OF SANTA MONICA,)
L.P.; AVANTAIR, INC.; AVANTAIR JET)
22 CENTER; AVFUEL CORPORATION; BBA)
AVIATION USA, INC.; BRIDGEFORD)
23 FLYING SERVICES; BUSINESS JET)
CENTER; BUSINESS JET CENTER)
24 OAKLAND, L.P.; CALIFORNIA IN NICE,)
INC.; CASTLE & COOKE, INC.; CASTLE &)
25 COOKE AVIATION SERVICES, INC.;)
CHANNEL ISLANDS AVIATION, INC.;)
26 CLAY LACY AVIATION, INC.; CROWNPAIR)
AVIATION; CROWNPAIR HOLDINGS, INC.;)
27 ENCORE JET CENTER; ENCORE JET)
CENTER, LLC; EPIC JET CENTER, LLC;)
28 JETFLITE, INC.; JETFLITE)

Health & Safety Code § 25249.6, *et seq.*

(Other)

I INTERNATIONAL; KAISERAIR, INC.;)
2 LANDMARK AVIATION; LANDMARK)
 AVIATION FBO HOLDINGS, LLC;)
3 LANDMARK AVIATION SAN DIEGO, INC.;)
4 LOYD'S AVIATION; LP ENTERPRISES,)
 LLC; MAGUIRE AVIATION, INC.; MAGUIRE)
5 AVIATION GROUP, LLC; MERCURY AIR)
 CENTER; MERCURY AIR CENTER LONG)
6 BEACH, INC.; MERCURY AIR GROUP, INC.;)
 NICE AIR; PACIFIC STATES AVIATION)
7 INC.; PENTASTAR AVIATION, LLC;)
 PENTASTAR AVIATION OF CALIFORNIA,)
8 LLC; R.A. BRIDGEFORD, INC.; ROSSI)
 AIRCRAFT, INC.; SIGNATURE FLIGHT)
9 SUPPORT CORPORATION; SOUTH BAY)
 AVIATION, INC.; STERLING AVIATION;)
10 STERLING AVIONICS, INC.; SUN AIR JETS,)
 LLC; THRESHOLD TECHNOLOGIES, INC.;)
11 TORRANCE FLITE PARK, LLC; WESTERN)
 CARDINAL, INC.; and DOES 1 through 200,)
 inclusive,)
12 Defendants.)
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1 Plaintiff Center for Environmental Health, in the public interest, based on
2 information and belief and investigation of counsel, except for information based on knowledge,
3 hereby makes the following allegations:

4 **INTRODUCTION**

5 1. This First Amended Complaint seeks to remedy Defendants' continuing
6 failure to warn individuals in California that they are being exposed to lead and lead compounds
7 (collectively, "Lead"), chemicals known to the State of California to cause cancer and birth
8 defects and other reproductive harm. Such exposures have occurred, and continue to occur,
9 through the distribution, sale and use of Defendants' Leaded aviation gasoline ("Avgas").
10 Individuals, including children and pregnant women, living and/or working near the airports at
11 which Defendants operate are exposed to Lead emitted from Avgas supplied by Defendants. In a
12 recent study of children living near airports where Avgas is used, it was determined that such
13 children have elevated blood Lead levels.

14 2. Under California's Proposition 65, Health & Safety Code § 25249.5, *et*
15 *seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California
16 to chemicals known to the State to cause cancer, birth defects or other reproductive harm without
17 first providing clear and reasonable warnings to individuals prior to their exposure. Defendants
18 supply Avgas, which emits Lead as airplanes are fueled and as the airplanes fueled and/or
19 operated by Defendants using Avgas take off and land. Defendants' use of Avgas exposes
20 individuals to Lead.

21 3. Despite the fact that Defendants expose children, pregnant women and
22 other individuals to Lead, Defendants provide no warnings whatsoever about the carcinogenic or
23 reproductive hazards associated with Lead exposure. Defendants' conduct thus violates the
24 warning provision of Proposition 65 set forth at Health & Safety Code § 25249.6.

25 **PARTIES**

26 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a
27 non-profit corporation dedicated to protecting the public from environmental health hazards and
28 toxic exposures. CEH is based in Oakland, California and incorporated under the laws of the

1 State of California. CEH is a “person” within the meaning of Health & Safety Code
2 § 25249.11(a) and brings this enforcement action in the public interest pursuant to Health &
3 Safety Code § 25249.7(d). CEH is a nationally recognized non-profit environmental advocacy
4 group that has prosecuted a large number of Proposition 65 cases in the public interest. These
5 cases have resulted in significant public benefit, including the reformulation of thousands of
6 products to remove toxic chemicals and to make them safer. CEH also provides information to
7 Californians about the health risks associated with exposure to hazardous substances, where
8 manufacturers and other responsible parties fail to do so.

9 5. Defendant AERODYNAMIC AVIATION is a person in the course of
10 doing business within the meaning of Health & Safety Code § 25249.11. AeroDynamic Aviation
11 distributes, sells and/or uses Avgas in California. AeroDynamic Aviation operates out of Reid-
12 Hillview Airport. AeroDynamic Aviation exposes individuals living and/or working near Reid-
13 Hillview Airport to Lead without first providing such individuals with clear and reasonable
14 warnings.

15 6. Defendant AIR 88, INC. is a person in the course of doing business within
16 the meaning of Health & Safety Code § 25249.11. Air 88, Inc. distributes, sells and/or uses
17 Avgas in California. Air 88, Inc. operates out of Montgomery Field. Air 88, Inc. exposes
18 individuals living and/or working near Montgomery Field to Lead without first providing such
19 individuals with clear and reasonable warnings.

20 7. Defendant AIR RUTTER INTERNATIONAL LLC is a person in the
21 course of doing business within the meaning of Health & Safety Code § 25249.11. Air Rutter
22 International LLC distributes, sells and/or uses Avgas in California. Air Rutter International LLC
23 operates out of Long Beach Airport (Daugherty Field). Air Rutter International LLC
24 exposes individuals living and/or working near Long Beach Airport (Daugherty Field) to Lead
25 without first providing such individuals with clear and reasonable warnings.

26 8. Defendant AIRFLITE, INC. is a person in the course of doing business
27 within the meaning of Health & Safety Code § 25249.11. AirFlite, Inc. distributes, sells and/or
28 uses Avgas in California. AirFlite, Inc. operates out of Long Beach Airport (Daugherty Field).

1 AirFlite, Inc. exposes individuals living and/or working near Long Beach Airport (Daugherty
2 Field) to Lead without first providing such individuals with clear and reasonable warnings.

3 9. Defendant AIRPORT PROPERTY PARTNERS LLC is a person in the
4 course of doing business within the meaning of Health & Safety Code § 25249.11. Airport
5 Property Partners LLC distributes, sells and/or uses Avgas in California. Airport Property
6 Partners LLC operates out of Hayward Executive Airport. Airport Property Partners LLC
7 exposes individuals living and/or working near Hayward Executive Airport to Lead without first
8 providing such individuals with clear and reasonable warnings.

9 10. Defendant AMELIA REID AVIATION LLC is a person in the course of
10 doing business within the meaning of Health & Safety Code § 25249.11. Amelia Reid Aviation
11 LLC distributes, sells and/or uses Avgas in California. Amelia Reid Aviation LLC operates out
12 of Reid-Hillview Airport. Amelia Reid Aviation LLC exposes individuals living and/or working
13 near Reid-Hillview Airport to Lead without first providing such individuals with clear and
14 reasonable warnings.

15 11. Defendant AMERICAN AIRPORTS CORPORATION is a person in the
16 course of doing business within the meaning of Health & Safety Code § 25249.11. American
17 Airports Corporation distributes, sells and/or uses Avgas in California. American Airports
18 Corporation operates out of Brackett Field and El Monte Airport. American Airports
19 Corporation exposes individuals living and/or working near Brackett Field and El Monte Airport
20 to Lead without first providing such individuals with clear and reasonable warnings.

21 12. Defendant AMERICAN FLYERS is a person in the course of doing
22 business within the meaning of Health & Safety Code § 25249.11. American Flyers distributes,
23 sells and/or uses Avgas in California. American Flyers operates out of Santa Monica Municipal
24 Airport. American Flyers exposes individuals living and/or working near Santa Monica
25 Municipal Airport to Lead without first providing such individuals with clear and reasonable
26 warnings.

27 13. Defendant AMERICAN FLYERS FBO is a person in the course of doing
28 business within the meaning of Health & Safety Code § 25249.11. American Flyers FBO

1 distributes, sells and/or uses Avgas in California. American Flyers FBO operates out of Santa
2 Monica Municipal Airport. American Flyers FBO exposes individuals living and/or working
3 near Santa Monica Municipal Airport to Lead without first providing such individuals with clear
4 and reasonable warnings.

5 14. Defendant APP JETCENTER is a person in the course of doing business
6 within the meaning of Health & Safety Code § 25249.11. APP JetCenter distributes, sells and/or
7 uses Avgas in California. APP JetCenter operates out of Hayward Executive Airport. APP
8 JetCenter exposes individuals living and/or working near Hayward Executive Airport to Lead
9 without first providing such individuals with clear and reasonable warnings.

10 15. Defendant A T E OF NEW YORK, INC. is a person in the course of doing
11 business within the meaning of Health & Safety Code § 25249.11. A T E of New York, Inc.
12 distributes, sells and/or uses Avgas in California. A T E of New York, Inc. operates out of Santa
13 Monica Municipal Airport. A T E of New York, Inc. exposes individuals living and/or working
14 near Santa Monica Municipal Airport to Lead without first providing such individuals with clear
15 and reasonable warnings.

16 16. Defendant ATLANTIC AVIATION CORPORATION is a person in the
17 course of doing business within the meaning of Health & Safety Code § 25249.11. Atlantic
18 Aviation Corporation distributes, sells and/or uses Avgas in California. Atlantic Aviation
19 Corporation operates out of Santa Barbara Municipal Airport, Hayward Executive Airport, John
20 Wayne Airport, Los Angeles International Airport, Meadows Field Airport and Santa Monica
21 Municipal Airport. Atlantic Aviation Corporation exposes individuals living and/or working
22 near Santa Barbara Municipal Airport, Hayward Executive Airport, John Wayne Airport, Los
23 Angeles International Airport, Meadows Field Airport and Santa Monica Municipal Airport to
24 Lead without first providing such individuals with clear and reasonable warnings.

25 17. Defendant ATLANTIC AVIATION FBO INC. is a person in the course of
26 doing business within the meaning of Health & Safety Code § 25249.11. Atlantic Aviation FBO
27 Inc. distributes, sells and/or uses Avgas in California. Atlantic Aviation FBO Inc. operates out of
28 Santa Barbara Municipal Airport, Hayward Executive Airport, John Wayne Airport, Los Angeles

1 International Airport, Meadows Field Airport and Santa Monica Municipal Airport. Atlantic
2 Aviation FBO Inc. exposes individuals living and/or working near Santa Barbara Municipal
3 Airport, Hayward Executive Airport, John Wayne Airport, Los Angeles International Airport,
4 Meadows Field Airport and Santa Monica Municipal Airport to Lead without first providing
5 such individuals with clear and reasonable warnings.

6 18. Defendant ATLANTIC AVIATION OF SANTA MONICA, L.P. is a
7 person in the course of doing business within the meaning of Health & Safety Code § 25249.11.
8 Atlantic Aviation of Santa Monica, L.P. distributes, sells and/or uses Avgas in California.
9 Atlantic Aviation of Santa Monica, L.P. operates out of Santa Monica Municipal Airport.
10 Atlantic Aviation of Santa Monica, L.P. exposes individuals living and/or working near Santa
11 Monica Municipal Airport to Lead without first providing such individuals with clear and
12 reasonable warnings.

13 19. Defendant AVANTAIR, INC. is a person in the course of doing business
14 within the meaning of Health & Safety Code § 25249.11. Avantair, Inc. distributes, sells and/or
15 uses Avgas in California. Avantair, Inc. operates out of Camarillo Airport. Avantair, Inc.
16 exposes individuals living and/or working near Camarillo Airport to Lead without first providing
17 such individuals with clear and reasonable warnings.

18 20. Defendant AVANTAIR JET CENTER is a person in the course of doing
19 business within the meaning of Health & Safety Code § 25249.11. Avantair Jet Center
20 distributes, sells and/or uses Avgas in California. Avantair Jet Center operates out of Camarillo
21 Airport. Avantair Jet Center exposes individuals living and/or working near Camarillo Airport to
22 Lead without first providing such individuals with clear and reasonable warnings.

23 21. Defendant AVFUEL CORPORATION is a person in the course of doing
24 business within the meaning of Health & Safety Code § 25249.11. Avfuel Corporation
25 distributes, sells and/or uses Avgas in California. Avfuel Corporation operates out of Brackett
26 Field, Brown Field Municipal Airport, Buchanan Field, Chino Airport, El Monte Airport,
27 Gillespie Field, McClellan-Palomar Airport, Meadows Field Airport, Santa Monica Municipal
28 Airport and Van Nuys Airport. Avfuel Corporation exposes individuals living and/or working

1 near Brackett Field, Brown Field Municipal Airport, Buchanan Field, Chino Airport, El Monte
2 Airport, Gillespie Field, McClellan-Palomar Airport, Meadows Field Airport, Santa Monica
3 Municipal Airport and Van Nuys Airport to Lead without first providing such individuals with
4 clear and reasonable warnings.

5 22. Defendant BBA AVIATION USA, INC. is a person in the course of doing
6 business within the meaning of Health & Safety Code § 25249.11. BBA Aviation USA, Inc.
7 distributes, sells and/or uses Avgas in California. BBA Aviation USA, Inc. operates out of Van
8 Nuys Airport, Santa Barbara Municipal Airport, Fresno Yosemite International Airport, John
9 Wayne Airport and Long Beach (Daugherty Field). BBA Aviation USA, Inc. exposes
10 individuals living and/or working near Van Nuys Airport, Santa Barbara Municipal Airport,
11 Fresno Yosemite International Airport, John Wayne Airport and Long Beach (Daugherty Field)
12 to Lead without first providing such individuals with clear and reasonable warnings.

13 23. Defendant BRIDGEFORD FLYING SERVICES is a person in the course
14 of doing business within the meaning of Health & Safety Code § 25249.11. Bridgeford Flying
15 Services distributes, sells and/or uses Avgas in California. Bridgeford Flying Services operates
16 out of Napa County Airport. Bridgeford Flying Services exposes individuals living and/or
17 working near Napa County Airport to Lead without first providing such individuals with clear
18 and reasonable warnings.

19 24. Defendant BUSINESS JET CENTER is a person in the course of doing
20 business within the meaning of Health & Safety Code § 25249.11. Business Jet Center
21 distributes, sells and/or uses Avgas in California. Business Jet Center operates out of Oakland
22 International Airport. Business Jet Center exposes individuals living and/or working near
23 Oakland International Airport to Lead without first providing such individuals with clear and
24 reasonable warnings.

25 25. Defendant BUSINESS JET CENTER OAKLAND, L.P. is a person in the
26 course of doing business within the meaning of Health & Safety Code § 25249.11. Business Jet
27 Center Oakland, L.P. distributes, sells and/or uses Avgas in California. Business Jet Center
28 Oakland, L.P. operates out of Oakland International Airport. Business Jet Center Oakland, L.P.

1 exposes individuals living and/or working near Oakland International Airport to Lead without
2 first providing such individuals with clear and reasonable warnings.

3 26. Defendant CALIFORNIA IN NICE, INC. is a person in the course of
4 doing business within the meaning of Health & Safety Code § 25249.1I. California in Nice, Inc.
5 distributes, sells and/or uses Avgas in California. California in Nice, Inc. operates out of Reid-
6 Hillview Airport. California in Nice, Inc. exposes individuals living and/or working near Reid-
7 Hillview Airport to Lead without first providing such individuals with clear and reasonable
8 warnings.

9 27. Defendant CASTLE & COOKE, INC. is a person in the course of doing
10 business within the meaning of Health & Safety Code § 25249.11. Castle & Cooke, Inc.
11 distributes, sells and/or uses Avgas in California. Castle & Cooke, Inc. operates out of Van Nuys
12 Airport. Castle & Cooke, Inc. exposes individuals living and/or working near Van Nuys Airport
13 to Lead without first providing such individuals with clear and reasonable warnings.

14 28. Defendant CASTLE & COOKE AVIATION SERVICES, INC. is a person
15 in the course of doing business within the meaning of Health & Safety Code § 25249.II. Castle
16 & Cooke Aviation Services, Inc. distributes, sells and/or uses Avgas in California. Castle &
17 Cooke Aviation Services, Inc. operates out of Van Nuys Airport. Castle & Cooke Aviation
18 Services, Inc. exposes individuals living and/or working near Van Nuys Airport to Lead without
19 first providing such individuals with clear and reasonable warnings.

20 29. Defendant CHANNEL ISLANDS AVIATION, INC. is a person in the
21 course of doing business within the meaning of Health & Safety Code § 25249.II. Channel
22 Islands Aviation, Inc. distributes, sells and/or uses Avgas in California. Channel Islands
23 Aviation, Inc. operates out of Camarillo Airport. Channel Islands Aviation, Inc. exposes
24 individuals living and/or working near Camarillo Airport to Lead without first providing such
25 individuals with clear and reasonable warnings.

26 30. Defendant CLAY LACY AVIATION, INC. is a person in the course of
27 doing business within the meaning of Health & Safety Code § 25249.1I. Clay Lacy Aviation,
28 Inc. distributes, sells and/or uses Avgas in California. Clay Lacy Aviation, Inc. operates out of

1 Van Nuys Airport. Clay Lacy Aviation, Inc. exposes individuals living and/or working near Van
2 Nuys Airport to Lead without first providing such individuals with clear and reasonable
3 warnings.

4 31. Defendant CROWNAIR AVIATION is a person in the course of doing
5 business within the meaning of Health & Safety Code § 25249.11. CrownAir Aviation
6 distributes, sells and/or uses Avgas in California. CrownAir Aviation operates out of
7 Montgomery Field. CrownAir Aviation exposes individuals living and/or working near
8 Montgomery Field to Lead without first providing such individuals with clear and reasonable
9 warnings.

10 32. Defendant CROWNAIR HOLDINGS, INC. is a person in the course of
11 doing business within the meaning of Health & Safety Code § 25249.11. CrownAir Holdings,
12 Inc. distributes, sells and/or uses Avgas in California. CrownAir Holdings, Inc. operates out of
13 Montgomery Field. CrownAir Holdings, Inc. exposes individuals living and/or working near
14 Montgomery Field to Lead without first providing such individuals with clear and reasonable
15 warnings.

16 33. Defendant ENCORE JET CENTER is a person in the course of doing
17 business within the meaning of Health & Safety Code § 25249.11. Encore Jet Center distributes,
18 sells and/or uses Avgas in California. Encore Jet Center operates out of Chino Airport. Encore
19 Jet Center exposes individuals living and/or working near Chino Airport to Lead without first
20 providing such individuals with clear and reasonable warnings.

21 34. Defendant ENCORE JET CENTER, LLC is a person in the course of
22 doing business within the meaning of Health & Safety Code § 25249.11. Encore Jet Center, LLC
23 distributes, sells and/or uses Avgas in California. Encore Jet Center, LLC operates out of Chino
24 Airport. Encore Jet Center, LLC exposes individuals living and/or working near Chino Airport
25 to Lead without first providing such individuals with clear and reasonable warnings.

26 35. Defendant EPIC JET CENTER, LLC is a person in the course of doing
27 business within the meaning of Health & Safety Code § 25249.11. Epic Jet Center, LLC
28 distributes, sells and/or uses Avgas in California. Epic Jet Center, LLC operates out of Meadows

1 Field Airport. Epic Jet Center, LLC exposes individuals living and/or working near Meadows
2 Field Airport to Lead without first providing such individuals with clear and reasonable
3 warnings.

4 36. Defendant JETFLITE, INC. is a person in the course of doing business
5 within the meaning of Health & Safety Code § 25249.11. JetFlite, Inc. distributes, sells and/or
6 uses Avgas in California. JetFlite, Inc. operates out of Long Beach Airport (Daugherty Field).
7 JetFlite, Inc. exposes individuals living and/or working near Long Beach Airport (Daugherty
8 Field) to Lead without first providing such individuals with clear and reasonable warnings.

9 37. Defendant JETFLITE INTERNATIONAL is a person in the course of
10 doing business within the meaning of Health & Safety Code § 25249.11. JetFlite International
11 distributes, sells and/or uses Avgas in California. JetFlite International operates out of Long
12 Beach Airport (Daugherty Field). JetFlite International exposes individuals living and/or
13 working near Long Beach Airport (Daugherty Field) to Lead without first providing such
14 individuals with clear and reasonable warnings.

15 38. Defendant KAISERAIR, INC. is a person in the course of doing business
16 within the meaning of Health & Safety Code § 25249.11. KaiserAir, Inc. distributes, sells and/or
17 uses Avgas in California. KaiserAir, Inc. operates out of Oakland International Airport.
18 KaiserAir, Inc. exposes individuals living and/or working near Oakland International Airport to
19 Lead without first providing such individuals with clear and reasonable warnings.

20 39. Defendant LANDMARK AVIATION is a person in the course of doing
21 business within the meaning of Health & Safety Code § 25249.11. Landmark Aviation
22 distributes, sells and/or uses Avgas in California. Landmark Aviation operates out of Los
23 Angeles International Airport. Landmark Aviation exposes individuals living and/or working
24 near Los Angeles International Airport to Lead without first providing such individuals with
25 clear and reasonable warnings.

26 40. Defendant LANDMARK AVIATION FBO HOLDINGS, LLC is a person
27 in the course of doing business within the meaning of Health & Safety Code § 25249.11.
28 Landmark Aviation FBO Holdings, LLC distributes, sells and/or uses Avgas in California.

1 Landmark Aviation FBO Holdings, LLC operates out of Los Angeles International Airport.
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Landmark Aviation FBO Holdings, LLC exposes individuals living and/or working near Los Angeles International Airport to Lead without first providing such individuals with clear and reasonable warnings.

41. Defendant LANDMARK AVIATION SAN DIEGO, INC. is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11. Landmark Aviation San Diego, Inc. distributes, sells and/or uses Avgas in California. Landmark Aviation San Diego, Inc. operates out of Los Angeles International Airport. Landmark Aviation San Diego, Inc. exposes individuals living and/or working near Los Angeles International Airport to Lead without first providing such individuals with clear and reasonable warnings.

42. Defendant LOYD'S AVIATION is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11. Loyd's Aviation distributes, sells and/or uses Avgas in California. Loyd's Aviation operates out of Meadows Field Airport. Loyd's Aviation exposes individuals living and/or working near Meadows Field Airport to Lead without first providing such individuals with clear and reasonable warnings.

43. Defendant LP ENTERPRISES, LLC is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11. LP Enterprises, LLC distributes, sells and/or uses Avgas in California. LP Enterprises, LLC operates out of Reid-Hillview Airport. LP Enterprises, LLC exposes individuals living and/or working near Reid-Hillview Airport to Lead without first providing such individuals with clear and reasonable warnings.

44. Defendant MAGUIRE AVIATION, INC. is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11. Maguire Aviation, Inc. distributes, sells and/or uses Avgas in California. Maguire Aviation, Inc. operates out of Van Nuys Airport. Maguire Aviation, Inc. exposes individuals living and/or working near Van Nuys Airport to Lead without first providing such individuals with clear and reasonable warnings.

45. Defendant MAGUIRE AVIATION GROUP, LLC is a person in the course of doing business within the meaning of Health & Safety Code § 25249.11. Maguire Aviation

1 Group, LLC distributes, sells and/or uses Avgas in California. Maguire Aviation Group, LLC
2 operates out of Van Nuys Airport. Maguire Aviation Group, LLC exposes individuals living
3 and/or working near Van Nuys Airport to Lead without first providing such individuals with
4 clear and reasonable warnings.

5 46. Defendant MERCURY AIR CENTER is a person in the course of doing
6 business within the meaning of Health & Safety Code § 25249.11. Mercury Air Center
7 distributes, sells and/or uses Avgas in California. Mercury Air Center operates out of Long
8 Beach Airport (Daugherty Field). Mercury Air Center exposes individuals living and/or working
9 near Long Beach Airport (Daugherty Field) to Lead without first providing such individuals with
10 clear and reasonable warnings.

11 47. Defendant MERCURY AIR CENTER LONG BEACH, INC. is a person
12 in the course of doing business within the meaning of Health & Safety Code § 25249.11.
13 Mercury Air Center Long Beach, Inc. distributes, sells and/or uses Avgas in California. Mercury
14 Air Center Long Beach, Inc. operates out of Long Beach Airport (Daugherty Field). Mercury Air
15 Center Long Beach, Inc. exposes individuals living and/or working near Long Beach Airport
16 (Daugherty Field) to Lead without first providing such individuals with clear and reasonable
17 warnings.

18 48. Defendant MERCURY AIR GROUP, INC. is a person in the course of
19 doing business within the meaning of Health & Safety Code § 25249.11. Mercury Air Group,
20 Inc. distributes, sells and/or uses Avgas in California. Mercury Air Group, Inc. operates out of
21 Long Beach Airport (Daugherty Field). Mercury Air Group, Inc. exposes individuals living
22 and/or working near Long Beach Airport (Daugherty Field) to Lead without first providing such
23 individuals with clear and reasonable warnings.

24 49. Defendant NICE AIR is a person in the course of doing business within
25 the meaning of Health & Safety Code § 25249.11. Nice Air distributes, sells and/or uses Avgas
26 in California. Nice Air operates out of Reid-Hillview Airport. Nice Air exposes individuals
27 living and/or working near Reid-Hillview Airport to Lead without first providing such
28 individuals with clear and reasonable warnings.

1 50. Defendant PACIFIC STATES AVIATION INC. is a person in the course
2 of doing business within the meaning of Health & Safety Code § 25249.11. Pacific States
3 Aviation Inc. distributes, sells and/or uses Avgas in California. Pacific States Aviation Inc.
4 operates out of Buchanan Field. Pacific States Aviation Inc. exposes individuals living and/or
5 working near Buchanan Field to Lead without first providing such individuals with clear and
6 reasonable warnings.

7 51. Defendant PENTASTAR AVIATION, LLC is a person in the course of
8 doing business within the meaning of Health & Safety Code § 25249.11. Pentastar Aviation,
9 LLC distributes, sells and/or uses Avgas in California. Pentastar Aviation, LLC operates out of
10 Van Nuys Airport. Pentastar Aviation, LLC exposes individuals living and/or working near Van
11 Nuys Airport to Lead without first providing such individuals with clear and reasonable
12 warnings.

13 52. Defendant PENTASTAR AVIATION OF CALIFORNIA, LLC is a person
14 in the course of doing business within the meaning of Health & Safety Code § 25249.11.
15 Pentastar Aviation of California, LLC distributes, sells and/or uses Avgas in California.
16 Pentastar Aviation of California, LLC operates out of Van Nuys Airport. Pentastar Aviation of
17 California, LLC exposes individuals living and/or working near Van Nuys Airport to Lead
18 without first providing such individuals with clear and reasonable warnings.

19 53. Defendant R.A. BRIDGEFORD, INC. is a person in the course of doing
20 business within the meaning of Health & Safety Code § 25249.11. R.A. Bridgeford, Inc.
21 distributes, sells and/or uses Avgas in California. R.A. Bridgeford, Inc. operates out of Napa
22 County Airport. R.A. Bridgeford, Inc. exposes individuals living and/or working near Napa
23 County Airport to Lead without first providing such individuals with clear and reasonable
24 warnings.

25 54. Defendant ROSSI AIRCRAFT, INC. is a person in the course of doing
26 business within the meaning of Health & Safety Code § 25249.11. Rossi Aircraft, Inc.
27 distributes, sells and/or uses Avgas in California. Rossi Aircraft, Inc. operates out of Palo Alto
28 Airport. Rossi Aircraft, Inc. exposes individuals living and/or working near Palo Alto Airport to

1 Lead without first providing such individuals with clear and reasonable warnings.

2 55. Defendant SIGNATURE FLIGHT SUPPORT CORPORATION is a
3 person in the course of doing business within the meaning of Health & Safety Code § 25249.11.
4 Signature Flight Support Corporation distributes, sells and/or uses Avgas in California.
5 Signature Flight Support Corporation operates out of Van Nuys Airport, Santa Barbara
6 Municipal Airport, Fresno Yosemite International Airport, John Wayne Airport and Long Beach
7 (Daugherty Field). Signature Flight Support Corporation exposes individuals living and/or
8 working near Van Nuys Airport, Santa Barbara Municipal Airport, Fresno Yosemite International
9 Airport, John Wayne Airport and Long Beach (Daugherty Field) to Lead without first providing
10 such individuals with clear and reasonable warnings.

11 56. Defendant SOUTH BAY AVIATION, INC. is a person in the course of
12 doing business within the meaning of Health & Safety Code § 25249.II. South Bay Aviation,
13 Inc. distributes, sells and/or uses Avgas in California. South Bay Aviation, Inc. operates out of
14 Zamperini Field. South Bay Aviation, Inc. exposes individuals living and/or working near
15 Zamperini Field to Lead without first providing such individuals with clear and reasonable
16 warnings.

17 57. Defendant STERLING AVIATION is a person in the course of doing
18 business within the meaning of Health & Safety Code § 25249.II. Sterling Aviation distributes,
19 sells and/or uses Avgas in California. Sterling Aviation operates out of Buchanan Field. Sterling
20 Aviation exposes individuals living and/or working near Buchanan Field to Lead without first
21 providing such individuals with clear and reasonable warnings.

22 58. Defendant STERLING AVIONICS, INC. is a person in the course of
23 doing business within the meaning of Health & Safety Code § 25249.11. Sterling Avionics, Inc.
24 distributes, sells and/or uses Avgas in California. Sterling Avionics, Inc. operates out of
25 Buchanan Field. Sterling Avionics, Inc. exposes individuals living and/or working near
26 Buchanan Field to Lead without first providing such individuals with clear and reasonable
27 warnings.

28 59. Defendant SUN AIR JETS, LLC is a person in the course of doing

1 business within the meaning of Health & Safety Code § 25249.11. Sun Air Jets, LLC distributes,
2 sells and/or uses Avgas in California. Sun Air Jets, LLC operates out of Camarillo Airport. Sun
3 Air Jets, LLC exposes individuals living and/or working near Camarillo Airport to Lead without
4 first providing such individuals with clear and reasonable warnings.

5 60. Defendant THRESHOLD TECHNOLOGIES, INC. is a person in the
6 course of doing business within the meaning of Health & Safety Code § 25249.11. Threshold
7 Technologies, Inc. distributes, sells and/or uses Avgas in California. Threshold Technologies,
8 Inc. operates out of Chino Airport. Threshold Technologies, Inc. exposes individuals living
9 and/or working near Chino Airport to Lead without first providing such individuals with clear
10 and reasonable warnings.

11 61. Defendant TORRANCE FLITE PARK, LLC is a person in the course of
12 doing business within the meaning of Health & Safety Code § 25249.11. Torrance Flite Park,
13 LLC distributes, sells and/or uses Avgas in California. Torrance Flite Park, LLC operates out of
14 Zamperini Field. Torrance Flite Park, LLC exposes individuals living and/or working near
15 Zamperini Field to Lead without first providing such individuals with clear and reasonable
16 warnings.

17 62. Defendant WESTERN CARDINAL, INC. is a person in the course of
18 doing business within the meaning of Health & Safety Code § 25249.11. Western Cardinal, Inc.
19 distributes, sells and/or uses Avgas in California. Western Cardinal, Inc. operates out of
20 Camarillo Airport. Western Cardinal, Inc. exposes individuals living and/or working near
21 Camarillo Airport to Lead without first providing such individuals with clear and reasonable
22 warnings.

23 63. DOES 1 through 200 are each a person in the course of doing business
24 within the meaning of Health & Safety Code § 25249.11. DOES 1 through 200 distribute, sell
25 and/or use Avgas in California.

26 64. The true names of DOES 1 through 200 are unknown to CEH at this time.
27 When their identities are ascertained, the Complaint shall be amended to reflect their true names.

28 65. The defendants identified in paragraphs 5 through 62 and DOES 1 through

1 200 are collectively referred to herein as "Defendants."

2 **JURISDICTION AND VENUE**

3 66. The Court has jurisdiction over this action pursuant to Health & Safety
4 Code § 25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant
5 to California Constitution Article VI, Section 10, because this case is a cause not given by statute
6 to other trial courts.

7 67. This Court has jurisdiction over Defendants because each is a business
8 entity that does sufficient business, has sufficient minimum contacts in California or otherwise
9 intentionally avails itself of the California market through the distribution, sale or use of Avgas
10 in California and/or by having such other contacts with California so as to render the
11 exercise of jurisdiction over it by the California courts consistent with traditional notions of fair
12 play and substantial justice.

13 68. Venue is proper in the Alameda County Superior Court because one or
14 more of the violations arise in the County of Alameda.

15 **BACKGROUND FACTS**

16 69. The People of the State of California have declared by initiative under
17 Proposition 65 their right "[t]o be informed about exposures to chemicals that cause cancer, birth
18 defects, or other reproductive harm." Proposition 65, § 1(b).

19 70. To effectuate this goal, Proposition 65 prohibits exposing people to
20 chemicals listed by the State of California as known to cause cancer, birth defects or other
21 reproductive harm above certain levels without a "clear and reasonable warning" unless the
22 business responsible for the exposure can prove that it fits within a statutory exemption. Health
23 & Safety Code § 25249.6 states, in pertinent part:

24 No person in the course of doing business shall knowingly and
25 intentionally expose any individual to a chemical known to the
26 state to cause cancer or reproductive toxicity without first giving
27 clear and reasonable warning to such individual . . .

28 71. On February 27, 1987, the State of California officially listed lead as a
chemical known to cause reproductive toxicity. Lead is specifically identified as a reproductive

1 toxicant under three subcategories: “developmental reproductive toxicity,” which means harm to
2 the developing fetus, “female reproductive toxicity,” which means harm to the female
3 reproductive system, and “male reproductive toxicity,” which means harm to the male
4 reproductive system. 27 California Code of Regulations (“C.C.R.”) § 27001(c). On February 27,
5 1988, one year after it was listed as a chemical known to cause reproductive toxicity, lead
6 became subject to the clear and reasonable warning requirement regarding reproductive toxicants
7 under Proposition 65. *Ibid.*; Health & Safety Code § 25249.10(b).

8 72. On October 1, 1992, the State of California officially listed lead and lead
9 compounds as chemicals known to cause cancer. On October 1, 1993, one year after they were
10 listed as chemicals known to cause cancer, lead and lead compounds became subject to the clear
11 and reasonable warning requirement regarding carcinogens under Proposition 65. 27 C.C.R.
12 § 27001(c); Health & Safety Code § 25249.10(b).

13 73. Use of Avgas is the single largest source of airborne Lead pollution in the
14 United States. See U.S. Environmental Protection Agency, “Development and Evaluation of an
15 Air Quality Modeling Approach for Lead Emissions from Piston-Engine Aircraft Operating on
16 Leaded Aviation Gasoline,” EPA-420-R-10-007, February 2010. Avgas usage results in **over**
17 **650 tons of Lead emissions every year** in the United States. *Ibid.*

18 74. Young children are especially susceptible to the toxic effects of Lead.
19 Children show a greater sensitivity to Lead’s effects than do adults. Adverse health impacts from
20 Lead exposure generally occur in children at lower blood Lead levels than in adults. Children
21 absorb and retain more Lead in proportion to their weight than do adults. Young children also
22 show a greater prevalence of iron deficiency, a condition that can increase gastrointestinal
23 absorption of Lead. The body accumulates Lead over a lifetime and releases it slowly, so even
24 small doses received in childhood, over time, can cause adverse health impacts, including but not
25 limited to reproductive toxicity, later in life. For example, in times of physiological stress, such
26 as pregnancy, the body can mobilize accumulated stores of Lead in tissue and bone, thereby
27 increasing the level of Lead in the blood and increasing the risk of harm to the fetus.

28 75. There is no safe level of exposure to Lead and even minute amounts of

1 Lead exposure have been proven harmful to children and adults. Studies have repeatedly
2 concluded that concentrations of Lead in children's blood previously deemed acceptable can
3 have adverse health effects. See, e.g., Canfield, R.L., et al., "Intellectual Impairment in Children
4 with Blood Lead Concentrations below 10 ug per Deciliter," *New England Journal of Medicine*
5 348:16, 2003. Another study on the effect of childhood Lead exposure declared that even the
6 smallest detectable amount of blood Lead levels in children can mean the difference between an
7 A or B grade in school. Lanphear, B.P., Dietrich, K., Auinger, P., Cox, C., "Subclinical Lead
8 Toxicity in U.S. Children and Adolescents," *Neurodevelopmental Disabilities II Platform*, 2000.

9 76. Children living near airports at which Avgas is used have increased blood
10 Lead levels and the impacts of Avgas are highest among those children living closest to the
11 airport. See, e.g., Miranda, M.L., Anthopoulos, R., Hastings, D., "A Geospatial Analysis of the
12 Effects of Aviation Gasoline on Childhood Blood Lead Levels," *Environmental Health
13 Perspectives*, 2011.

14 77. Lead exposures for pregnant women are also of particular concern in light
15 of evidence that even short term Lead exposures *in utero* may have long-term harmful effects.
16 See Hu, H., et al., "Fetal Lead Exposure at Each State of Pregnancy as a Predictor of Infant
17 Mental Development," *Environmental Health Perspectives* 114:11, 2006; and Schnaas, Lourdes,
18 et al., "Reduced Intellectual Development in Children with Prenatal Lead Exposure,"
19 *Environmental Health Perspectives* 114:5, 2006.

20 78. Avgas contains approximately 2.12 grams of Lead per gallon. Defendants
21 supply Avgas to planes that take off and land at the airports at which they operate. Defendants'
22 facilities aggregate the airplanes in such a concentrated area that emissions from the airplanes
23 fueled and/or operated by Defendants expose individuals living and/or working near the airports
24 to Lead emitted from Avgas. The routes of exposure for the violations are primarily through
25 inhalation, when individuals breathe the Lead emitted by the airplanes fueled and/or operated by
26 Defendants; and also through ingestion via hand-to-mouth contact and dermal absorption directly
27 through the skin when individuals touch or handle dust laden with Lead from Avgas. The
28 exposures to Lead from Avgas occur in the neighborhoods surrounding airports where

1 Defendants operate.

2 79. Defendants control the circumstances of the exposures which result from
3 the use of the Avgas they distribute, sell and/or use. They control how many airplanes they fuel
4 each day and when they provide fuel to those airplanes, which also impacts when the airplanes
5 take off and land. Many Defendants have their own airplanes which use Avgas and control not
6 only when those airplanes are fueled, but also when they take off and land.

7 80. No clear and reasonable warning is provided to individuals living and/or
8 working near the airports at which Defendants operate regarding the carcinogenic or reproductive
9 hazards of Lead.

10 81. Any person acting in the public interest has standing to enforce violations
11 of Proposition 65 provided that such person has supplied the requisite public enforcers with a
12 valid 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the
13 action within such time. Health & Safety Code § 25249.7(d).

14 82. More than sixty days prior to naming each Defendant in this lawsuit, CEH
15 provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General,
16 the District Attorneys of every county in California, the City Attorneys of every California city
17 with a population greater than 750,000 and to each of the named Defendants. In compliance with
18 Health & Safety Code § 25249.7(d) and 27 C.C.R. § 25903(b), each Notice included the
19 following information: (1) the name and address of each violator; (2) the statute violated; (3) the
20 time period during which violations occurred; (4) specific descriptions of the violations,
21 including (a) the routes of exposure to Lead from Avgas, (b) the locations of the exposures; and
22 (c) a description of the individuals exposed; and (5) the name of the specific Proposition 65-
23 listed chemical that is the subject of the violations described in each Notice.

24 83. CEH also sent a Certificate of Merit for each Notice to the California
25 Attorney General, the District Attorneys of every county in California, the City Attorneys of
26 every California city with a population greater than 750,000 and to each of the named
27 Defendants. In compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, each
28 Certificate certified that CEH’s counsel: (1) has consulted with one or more persons with

1 relevant and appropriate experience or expertise who reviewed facts, studies or other data
2 regarding the exposures to Lead alleged in each Notice; and (2) based on the information
3 obtained through such consultations, believes that there is a reasonable and meritorious case for a
4 citizen enforcement action based on the facts alleged in each Notice. In compliance with Health
5 & Safety Code § 25249.7(d) and 11 C.C.R. § 3102, each Certificate served on the Attorney
6 General included factual information – provided on a confidential basis – sufficient to establish
7 the basis for the Certificate, including the identity of the person(s) consulted by CEH's counsel
8 and the facts, studies or other data reviewed by such persons.

9 84. None of the public prosecutors with the authority to prosecute violations
10 of Proposition 65 has commenced and/or is diligently prosecuting a cause of action against
11 Defendants under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in each
12 of CEH's Notices.

13 85. Defendants both know and intend that individuals will be exposed to the
14 Lead from the Avgas sold and/or used by Defendants.

15 86. Under Proposition 65, an exposure is “knowing” where the party
16 responsible for such exposure has:

17 knowledge of the fact that a[n] . . . exposure to a chemical listed
18 pursuant to [Health & Safety Code § 25249.8(a)] is occurring. No
knowledge that the . . . exposure is unlawful is required.

19 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final
20 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,
21 § 12201).

22 87. Defendants know that Avgas contains Lead due to Avgas being marketed
23 and sold as “leaded.”

24 88. The fact that individuals living and/or working near airports where Avgas
25 is sold and/or used are exposed to Lead from the Avgas has also been widely discussed in
26 government reports and in the media in recent years such that Defendants have actual or at least
27 constructive knowledge of the exposures which result from their sale and use of Avgas.
28

1 89. Defendants know or should have known that emissions from airplanes
2 which use Avgas taking off and landing at the airports where Defendants operate would result in
3 emissions of Lead into the vicinity of those airports. Every airplane fueled and/or operated by a
4 Defendant necessarily takes off from and lands at the airport where such Defendant operates.
5 Defendants thus know and intend that the airplanes fueled and/or operated by them will emit
6 Lead into the neighborhoods surrounding the airports where they operate. The Lead exposures to
7 individuals who use Avgas are a natural and foreseeable consequence of Defendants' placing
8 Avgas into the stream of commerce.

9 90. Defendants also have been informed that the Lead in Avgas sold and/or
10 used by Defendants exposes individuals living and/or working near airports where Defendants
11 operate to Lead by the 60-Day Notice of Violation and accompanying Certificate of Merit served
12 on them by CEH.

13 91. Nevertheless, Defendants continue to expose individuals, including
14 children and pregnant women, to Lead without prior clear and reasonable warnings regarding the
15 carcinogenic or reproductive hazards of Lead.

16 92. CEH has engaged in good-faith efforts to resolve the claims alleged herein
17 prior to filing this Complaint.

18 93. Any person "violating or threatening to violate" Proposition 65 may be
19 enjoined in any court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to
20 violate" is defined to mean "to create a condition in which there is a substantial probability that a
21 violation will occur." Health & Safety Code § 25249.11(e). Proposition 65 provides for civil
22 penalties not to exceed \$2,500 per day for each violation of Proposition 65.

23 **FIRST CAUSE OF ACTION**

24 **(Violations of the Health & Safety Code § 25249.6)**

25 94. CEH realleges and incorporates by reference as if specifically set forth
26 herein Paragraphs 1 through 93, inclusive.

27 95. By fueling and/or operating airplanes with Avgas, each Defendant is a
28 person in the course of doing business within the meaning of Health & Safety Code § 25249.11.

1 96. Lead is a chemical listed by the State of California as known to cause
2 cancer, birth defects and other reproductive harm.

3 97. Defendants know that average use of the Avgas they provide to airplanes
4 they fuel and/or operate will expose individuals living and working near the airports at which
5 Defendants operate to Lead. Defendants intend that Avgas will be used in a manner that results
6 in exposures to Lead from Avgas.

7 98. Defendants have failed, and continue to fail, to provide clear and
8 reasonable warnings regarding the carcinogenicity and reproductive toxicity of Lead to
9 individuals living and working near the airports at which Defendants operate.

10 99. By committing the acts alleged above, Defendants have at all times
11 relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing
12 individuals to Lead without first giving clear and reasonable warnings to such individuals
13 regarding the carcinogenicity and reproductive toxicity of Lead.

14 Wherefore, CEH prays for judgment against Defendants, as set forth hereafter.

PRAYER FOR RELIEF

16 Wherefore, CEH prays for judgment against Defendants as follows:

17 1. That the Court, pursuant to Health & Safety Code § 25249.7(b), assess
18 civil penalties against each of the Defendants in the amount of \$2,500 per day for each violation
19 of Proposition 65 according to proof;

20 2. That the Court, pursuant to Health & Safety Code § 25249.7(a),
21 preliminarily and permanently enjoin Defendants from offering Avgas for sale in California
22 without first providing prior clear and reasonable warnings, as CEH shall specify in further
23 application to the Court;

24 3. That the Court, pursuant to Health & Safety Code § 25249.7(a), order
25 Defendants to take action to stop ongoing unwarned exposures to Lead resulting from their sale
26 and/or use of Avgas, as CEH shall specify in further application to the Court;

27 4. That the Court, pursuant to Code of Civil Procedure § 1021.5 or any other
28 applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

1 5. That the Court grant such other and further relief as may be just and
2 proper.
3

4 Dated: October 25, 2011

Respectfully submitted,

5 LEXINGTON LAW GROUP
6



7
8 Mark N. Todzo
9 Attorneys for Plaintiff
10 CENTER FOR ENVIRONMENTAL HEALTH

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